

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: MAR - 6 1998

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that the corporation was incorporated in [REDACTED] on [REDACTED].

The Articles of Incorporation described the organization's purpose or purposes as follows: To educate and aid the fishing community and the general public about issues affecting commercial fishing.

Pursuant to the organization's Bylaws, article III Section 1, membership shall be open to female members of fishing families.

The organization's activities consists of the following: holding information meetings, spearheaded telephone and letter writing campaigns, testified as a group at a congressional and at fisheries service hearings, urging the public to pen letters to their senator, etc. voicing support of the "Right Whale Plan"- the way it is written. In addition, the organization keep the community aware of current or pending legislation that will affect the industry. The organization also plan to give an annual scholarship to high school student of a fishing family.

The organization will be supported by dues, donations and fundraising. Its disbursements will be for stamps, fees (legal, acct. incorp., etc.) news-letters, postal box rent, office supplies, misc. (copies, fax, postage, camera) charitable contributions and scholarship.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

Section 1.501(c)(3)-1(c)(3)(i) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Section 1.501(c)(3)-1(c)(3)(ii) of the Regulations states "An organization is an "action" organization if a substantial part of its activities is attempting to influence legislation by propaganda or otherwise."

Section 1.501(c)(3)-1(c)(3)(iii) further defines an "action" organization as one which participates or intervenes directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office....Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of or written statements or the making of oral statements on behalf of or in opposition to such a candidate.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations provides, in part, that an organization is not organized or operated exclusively for one or more of the purposes mentioned in section 501(c)(3) of the Code unless it serves a public rather than a private interest. An organization may not be exempt if it is operated for the benefit of private individuals.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Section 1.501(c)(3)-1(d)(3) of the Regulations provides, in part, that the term "educational" relates to the instruction of the public on subjects useful to the individual and beneficial to the community. Museums and schools are included in the examples of educational organizations which, if they otherwise meet the requirements of section 501(c)(3) of the Code, may qualify under this section.

Section 1.501(c)(3)-1(b)(4) of the Regulations states that "an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized. However, an organization does not meet the organizational test if its articles or the law of the State in which it was created provide that its assets would, upon dissolution, be distributed to its members or shareholders."

Revenue Ruling 71-504, 1971-2 C.B. 231 holds that a city medical society, exempt under Section 501(c)(6) of the Code, that primarily directs its activities to the promotion of the common business purposes of its members may not be charitable organization under section 501(c)(3) of the Code.

Likewise, it was held in Revenue Ruling 71-505, 1971-2 C.B. 232 that city bar association, exempt under section 501(c)(6) of the Code, that primarily directs its activities to the promotion and protection of the practice of law may not be reclassified as an educational or charitable organization exempt under section 501(c)(3) of the Code.

The organization's purpose as mentioned above does not meet the requirements as set forth in section 501(c)(3) of the Code. Furthermore, the organization's Articles of Incorporation does not contain any clause limiting its purpose to those specified in section 501(c)(3) of the Code. Therefore, the organization does not meet the organizational test as required pursuant to Regs. 1.501(c)(3)-1(a)(1).

An organization is not operated exclusively for educational purposes where its activities are primarily directed toward keeping the community aware of current or pending legislation that will affect the fishing industry through information

meetings, telephone and letter writing campaigns, grassroots lobbying and in promoting business, social or civic action, as distinguished from the cultivation, development, or improvement of the capabilities of the individual through instruction or training. The ancillary gathering and/or dissemination of information through publication, workshops or other media as a means of accomplishing such an objective does not of itself give it an educational character for exemption purposes. See Estate of Anita McCormick Blaine v. Commissioner, 22 T.C. 1195.

Moreover, it has been held that the present of a single noncharitable or noneducational purpose, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of the number or importance of truly charitable or educational purposes. See Better Business Bureau v. U.S., 326 U.S. 279 (1945) and Revenue Ruling 71-504 and 71-505.

Therefore, like in the Better Business Bureau case and Revenue Ruling 71-504 and 71-505, your organization is neither organized nor operated exclusively for educational or for any of the other purposes set forth in Section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

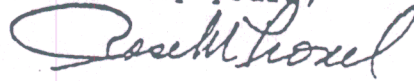
Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court,

or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



District Director

Enclosure: Publication 892